

HB 1173

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1 A bill to be entitled
2 An act relating to the enforcement of county and municipal
3 codes and ordinances; amending s. 162.12, F.S.;
4 authorizing notices relating to a code violation to be
5 sent by certified mail to the property owner at an address
6 provided to the local government for the purposes of
7 receiving notices or to the registered agent of a
8 corporation for property owned by a corporation; deleting
9 a requirement for such notices to be sent by first-class
10 mail; amending s. 162.21, F.S.; authorizing a code
11 enforcement officer to immediately issue a citation for a
12 code violation if the violator is engaged in violations of
13 an itinerant or transient nature; amending s. 173.01,
14 F.S.; authorizing a municipality or its assignee to
15 foreclose on an abatement assessment lien against real
16 property; amending s. 173.03, F.S.; authorizing a
17 foreclosure for an abatement assessment lien after the
18 conclusion of proceedings to challenge the lien or after a
19 certain period after the lien is recorded in the official
20 records; making grammatical and technical changes;
21 amending s. 173.04, F.S.; authorizing a municipality or
22 its assignee to enforce an abatement assessment lien in
23 circuit court by a bill in chancery that describes the
24 delinquent lien and the lands to which the lien applies;
25 making grammatical and technical changes; creating s.
26 173.16, F.S.; authorizing a municipality to assign an
27 abatement assessment lien to a private party under certain
28 circumstances; providing an effective date.

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Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 162.12, Florida Statutes, is amended to read:

162.12 Notices.—

(1) All notices required by this part shall be provided to the alleged violator by:

(a) Certified mail, return receipt requested to, ~~provided if such notice is sent under this paragraph to the owner of the property in question at the address listed in the tax collector's office for tax notices or to, and at any other address provided by the property owner in writing to the local government for the purposes of receiving notices. For property owned by a corporation, notices may be provided by certified mail, return receipt requested, to the registered agent of the corporation. If any notice sent by certified mail by such owner and is not signed as received within 30 days after the date of mailing returned as unclaimed or refused, notice may be provided by posting as described in subparagraphs (2) (b)1. and 2. and by first class mail directed to the addresses furnished to the local government with a properly executed proof of mailing or affidavit confirming the first class mailing;~~

(b) Hand delivery by the sheriff or other law enforcement officer, code inspector, or other person designated by the local governing body;

(c) Leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years

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57 of age and informing such person of the contents of the notice;
58 or

59 (d) In the case of commercial premises, leaving the notice
60 with the manager or other person in charge.

61 (2) In addition to providing notice as set forth in
62 subsection (1), at the option of the code enforcement board,
63 notice may also be served by publication or posting, as follows:

64 (a)1. Such notice shall be published once during each week
65 for 4 consecutive weeks (four publications being sufficient) in
66 a newspaper of general circulation in the county where the code
67 enforcement board is located. The newspaper shall meet such
68 requirements as are prescribed under chapter 50 for legal and
69 official advertisements.

70 2. Proof of publication shall be made as provided in ss.
71 50.041 and 50.051.

72 (b)1. In lieu of publication as described in paragraph
73 (a), such notice may be posted at least 10 days prior to the
74 hearing, or prior to the expiration of any deadline contained in
75 the notice, in at least two locations, one of which shall be the
76 property upon which the violation is alleged to exist and the
77 other of which shall be, in the case of municipalities, at the
78 primary municipal government office, and in the case of
79 counties, at the front door of the courthouse or the main county
80 governmental center in said county.

81 2. Proof of posting shall be by affidavit of the person
82 posting the notice, which affidavit shall include a copy of the
83 notice posted and the date and places of its posting.

84 (c) Notice by publication or posting may run concurrently

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85 with, or may follow, an attempt or attempts to provide notice by
86 hand delivery or by mail as required under subsection (1).
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88 Evidence that an attempt has been made to hand deliver or mail
89 notice as provided in subsection (1), together with proof of
90 publication or posting as provided in subsection (2), is ~~shall~~
91 ~~be~~ sufficient to show that the notice requirements of this part
92 have been met, without regard to whether or not the alleged
93 violator actually received such notice.

94 Section 2. Subsection (3) of section 162.21, Florida
95 Statutes, is amended to read:

96 162.21 Enforcement of county or municipal codes or
97 ordinances; penalties.—

98 (3) (a) A code enforcement officer is authorized to issue a
99 citation to a person when, based upon personal investigation,
100 the officer has reasonable cause to believe that the person has
101 committed a civil infraction in violation of a duly enacted code
102 or ordinance and that the county court will hear the charge.

103 (b) Prior to issuing a citation, a code enforcement
104 officer shall provide notice to the person that the person has
105 committed a violation of a code or ordinance and shall establish
106 a reasonable time period within which the person must correct
107 the violation. Such time period shall be no more than 30 days.
108 If, upon personal investigation, a code enforcement officer
109 finds that the person has not corrected the violation within the
110 time period, a code enforcement officer may issue a citation to
111 the person who has committed the violation. A code enforcement
112 officer does not have to provide the person with a reasonable

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113 | time period to correct the violation prior to issuing a citation
 114 | and may immediately issue a citation if:

115 | 1. A repeat violation is found; ~~or~~

116 | 2. ~~If~~ The code enforcement officer has reason to believe
 117 | that the violation presents a serious threat to the public
 118 | health, safety, or welfare, or if the violation is irreparable
 119 | or irreversible; or

120 | 3. The violator is engaged in violations of an itinerant
 121 | or transient nature, as defined in the local code or ordinance.

122 | (c) A citation issued by a code enforcement officer shall
 123 | be in a form prescribed by the county or the municipality and
 124 | shall contain:

125 | 1. The date and time of issuance.

126 | 2. The name and address of the person to whom the citation
 127 | is issued.

128 | 3. The date and time the civil infraction was committed.

129 | 4. The facts constituting reasonable cause.

130 | 5. The number or section of the code or ordinance
 131 | violated.

132 | 6. The name and authority of the code enforcement officer.

133 | 7. The procedure for the person to follow in order to pay
 134 | the civil penalty or to contest the citation.

135 | 8. The applicable civil penalty if the person elects to
 136 | contest the citation.

137 | 9. The applicable civil penalty if the person elects not
 138 | to contest the citation.

139 | 10. A conspicuous statement that if the person fails to
 140 | pay the civil penalty within the time allowed, or fails to

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141 appear in court to contest the citation, the person shall be
 142 deemed to have waived his or her right to contest the citation
 143 and that, in such case, judgment may be entered against the
 144 person for an amount up to the maximum civil penalty.

145 Section 3. Section 173.01, Florida Statutes, is amended to
 146 read:

147 173.01 Foreclosure of municipal tax certificates and
 148 abatement assessment liens authorized.—The lien of any and all
 149 taxes, except those ad valorem taxes collectible by the county
 150 tax collector, tax certificates, ~~and~~ special assessments, and
 151 abatement assessment liens imposed by any municipality
 152 ~~incorporated city or town~~ in the state upon real estate may be
 153 foreclosed by such municipality or its assignees ~~city or town~~ by
 154 suit in chancery. The practice, pleading, and procedure in any
 155 such suit must ~~shall~~ be in substantial accordance with the
 156 practice, pleading, and procedure for the foreclosure of
 157 mortgages of real estate, except as herein otherwise provided.

158 Section 4. Section 173.03, Florida Statutes, is amended to
 159 read:

160 173.03 Conditions determining when suit may be brought;
 161 lands and claims included.—

162 (1) Suit may be brought at any time after any one or more
 163 of the following events, respectively:

164 (a) After the expiration of 2 years from the date of any
 165 tax certificate issued and held by a municipality ~~city or town~~
 166 whose charter provides for or requires the issuing of tax
 167 certificates for delinquent taxes;

168 (b) After the expiration of 2 years from the date any tax

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169 becomes delinquent which was imposed by a municipality ~~city or~~
 170 ~~town~~ whose charter does not provide for or require the issuing
 171 of tax certificates; ~~or~~

172 (c) After the expiration of 1 year from the date any
 173 special assessment or installment thereof becomes due and
 174 payable; or

175 (d) After the expiration of 1 year from the date of
 176 recording of an abatement assessment lien in the public records
 177 of the county where the property is located or upon the
 178 conclusion of any administrative or judicial proceeding
 179 challenging the lien, whichever is later.

180 (2) The suit may include ~~There may be included in any suit~~
 181 all or any part of the lands upon which tax certificates have
 182 been outstanding, ~~or~~ taxes have remained delinquent, ~~or~~ any
 183 special assessment or installment thereof ~~shall~~ have been in
 184 default, or an abatement assessment lien has been unsatisfied
 185 for the respective periods specified in subsection (1). The suit
 186 may also include aforesaid, ~~and there may be included therein~~
 187 all claims and demands of the municipality ~~said city or town~~
 188 against the ~~said~~ lands or any part thereof for taxes, tax
 189 certificates, and special assessments or installments thereof
 190 which may be due and payable to the municipality ~~such city or~~
 191 ~~town~~ at the time of the institution of the ~~such~~ suit.

192 Section 5. Subsection (1) of section 173.04, Florida
 193 Statutes, is amended to read:

194 173.04 Procedure for bringing foreclosure suit;
 195 certificate of attorney as to notice of suit; jurisdiction
 196 obtained by publication of notice of suit; form of notice.-

197 (1) Any suit ~~hereby~~ authorized by this chapter shall be
 198 commenced by bill in chancery in the circuit court of the county
 199 in which the municipality ~~such city or town~~ is situated. The
 200 suit may be brought by the municipality or an assignee of the
 201 municipality to enforce the, ~~in the name of the city or town~~
 202 ~~whose taxes, tax certificates, and special assessments, and~~
 203 abatement assessment liens that ~~are sought to be enforced, as~~
 204 ~~complainant, and against any or all lands upon which any taxes,~~
 205 ~~tax certificates and special assessments~~ are delinquent ~~(as the~~
 206 ~~ease may be)~~ for the periods described in s. 173.03(1). The
 207 ~~period aforesaid, as defendant, in which bill~~ in chancery must
 208 ~~there shall be~~ briefly describe ~~described~~ the levy or imposition
 209 and nonpayment of taxes, and special assessments, or abatement
 210 assessments that ~~which~~ are delinquent ~~for the period aforesaid,~~
 211 ~~and of all other taxes and special assessments then due and~~
 212 ~~payable to said city or town and sought to be recovered in such~~
 213 ~~bill,~~ the lands proceeded against, and the amount chargeable to
 214 each parcel or tract. It is ~~shall be~~ unnecessary to name in such
 215 bill or proceedings any person owning or having any interest in
 216 or lien upon such lands as defendants. At least 30 days before
 217 ~~prior to~~ the filing of any such bill in chancery, written notice
 218 of intention to file the same shall be sent by registered mail
 219 to the last known address of the holder of the record title and
 220 to the holder of record of each mortgage or other lien, except
 221 judgment liens, upon each tract of land to be included in said
 222 bill in chancery; such notice shall briefly describe the
 223 particular lot or parcel of land, shall state the amount of tax
 224 certificate and special assessment liens sought to be enforced,

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225 | and shall warn the ~~said~~ owner and holders of liens, mortgages,
226 | or other liens that on or after the day therein named said bill
227 | in chancery to enforce the same will be filed, unless paid on or
228 | before said date.

229 | Section 6. Section 173.16, Florida Statutes, is created to
230 | read:

231 | 173.16 Assignment of abatement assessment liens to a
232 | private party.—A municipality that imposes a lien against real
233 | property for the assessment of costs to abate conditions on the
234 | property which pose a threat to the public health, safety, and
235 | welfare may assign the lien to a private party for consideration
236 | if the lien has been recorded in the official records in the
237 | county in which the property is located.

238 | Section 7. This act shall take effect July 1, 2011.